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Foreword

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SELECTED COMMENTS ON 1986 IMMIGRATION REFORMS

Foreword

While the United States is a nation of immigrants, the country has, perhaps since its inception, struggled with its immigration policy. The debate often has turned ugly as negative themes, including racism and jingoism, clouded more legitimate concerns. The immigration debate of the last decade has mirrored those of the past, with the exception that the recent debate has introduced new policy concerns, including discussions relating to the nation's apparent inability to *physically* control its borders. Despite this additional concern, the goals of immigration policy, past and present, are similar. The United States is attempting to regain control over the flow of immigration into the country, yet remain true to the nation's commitment to provide refuge for those fleeing political oppression, which requires a generous and fair legal immigration policy.

The recent debate has been especially intense and its stakes high. As Congress worked through numerous versions of the legislation during the last three sessions, scores of interest groups and individuals lobbied hard with heightening virulence for their positions and interests. With the controversies so great and the positions so diverse, many believed that immigration reform was a problem around which Congress would not reach a consensus and more generally, that the government could not solve.

The federal government did, of course, enact immigration reform legislation in 1986. In light of the controversies involved, it is not surprising that this legislation is a series of compromises. Serious questions remain, however, as to whether those compromises are compatible and workable. Will this legislation enable the government to control the flow of immigration only at the expense of undermining the constitutional rights of citizens and aliens? Clearly, this country's immigration problems do not exist in a vacuum, and they must be addressed in the context of broader foreign policy concerns, as well as related domestic issues. Nevertheless, it is valuable to focus upon interstitial legal issues arising under the 1986 legislation.

The five Comments that follow attempt to evaluate various issues raised by these reforms. The purpose of this endeavor was not to address all issues or concerns raised, but rather to study several

selected topics comprehensively. This work reflects significant efforts on the part of the individual authors of the Comments and other members of the *Law Review*, particularly those members who worked directly on the project. The *Review* also owes a debt of gratitude to Professors Ira Kurzban and Irwin Stotzky for their participation and guidance. Much of this work was completed prior to the implementation of the legislation and should be considered as a starting point for what undoubtedly will be significant, ongoing discussion and analysis of these issues as the legislation is implemented.

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